

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 316 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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BHIKHABHAI MEGHABHAI MEGHANI

Versus

STATE OF GUJARAT

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Appearance:

MR YOGESH S LAKHANI for Petitioners

MR KT DAVE Ld. APP for Respondent No. 1

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CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 21/06/1999

ORAL JUDGEMENT

Heard learned advocate Mr. Prachhak for Mr. YS  
Lakhani on behalf of the petitioners.

Rule. Mr KT Dave, learned APP waives service of  
rule on behalf of the respondent no. 1.

The petitioners have challenged the impugned  
order of bail dated 19.5.1999 passed by the learned

Sessions Judge, Rajkot in the proceedings of Criminal Misc. Application No. 547 of 1999.

As per the impugned order, the petitioners are ordered to be released on bail in respect of M. Case No. 23 of 1999, registered at Rajkot Taluka Police Station on furnishing bond of rs. 5000/ and a surety for the like amount. That order also stipulate conditions no. (1) to (6), whereby the petitioners are directed to comply with the agreement to sell entered into between Kishorsinh Vaghela and Amrutlal Nanjibhai Patel, which was cancelled subsequently. That vide condition no. 2, the petitioners are directed to comply with the procedure to convert the disputed land into non-agricultural land and also the procedure for getting exemption from the provisions of Urban Land Ceiling Act. The petitioners are directed to comply with the said procedure by keeping the complainant alongwith them. That vide condition no. 3, the petitioners are directed to maintain the plot which are de-marketed and restrained from allotting the plots to anybody or accept any amount for the same. The petitioners are further directed to allot such plots to respective allottees as allotted by the complainant. That vide condition no. 4, the petitioners are directed to complete the prodecue for converting the land into non-agricultural use within a period of one month.

The petitioners have contended that above stted conditions no. 1 to 4 are extraneous to the subject matter of the crime for which the petitioners applied for bail. That the learned Sessions Judge has no jurisdiction to impose any such condition while exercising the powers under Chapter-33 of Code of Criminal Procedure, 1973.

Learned APP Mr KT Dave has fairly stated at the Bar that though the learned Sessions Judge desired to resolve the root cause of the dispute between the parties, incorporation of all such conditions in a bail order being contrary to the provisions of law, the order could be unsustainable and therefore, appropriate orders to modify the same is required to be passed:

In view of the fact that this Court has expressed a view in the matter of Bhikhubhai Udesinh Darbar vs. State of Gujarat, reported in 1998 (1) GLH p. 22 to the effect that while granting bail under sec. 439 of the Code of Criminal Procedure, conditions imposed must not be harsh, onerous or excessive so as to frustrate the very object of the bail or deny the bail. That the impugned order is contrary to the said proposition as

laid down by this Court, and also contrary to the provisions of law, hence the same is required to be modified.

As a result of the above stated discussion, the petition is allowed. The Conditions Nos. 1 to 4 of the impugned order dated 19.5.1999 passed by the Learned Sessions Judge, Rajkot in the proceedings of Criminal Misc. Application No. 547 of 1999 stands deleted. It is clarified that the remaining conditions of the said order shall remain in force. Rule made absolute accordingly. DS Permitted.

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